IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.784 OF 2002

IN

APPEAL FROM ORDER ST.NO.7501 OF 2002

Juhu Abhishek Apartment Co-op
Housing Society Ltd. ...Applicant

Vs.

Municipal Corporation of
Greater Mumbai & Ors. ...Respondents

CORAM: A.S.OKA, J.
DATED: JANUARY 18, 2005.

P.C.:

1. When the Application was called out in the morning session, time was taken by the learned Counsel for the Appellant to satisfy the Court that the Appeal from Order is maintainable. However, none appeared when the Application is subsequently called out.

2. From the Memorandum of Appeal it appears that the order under challenge is order dated 23rd October 2001 by which Notice of Motion No.350 of 2000 was dismissed by the learned Trial Judge. A copy of Notice of Motion No.350 of 2000 is annexed to the Memorandum of Appeal. The prayer in the Notice of Motion is only for appointing District Inspector of Land Records for carrying out the joint survey. The said Notice of Motion has been dismissed. Obviously, the order

passed on the said Notice of Motion is not appealable.

Appeal from Order is dismissed as not maintainable.

3. If the Appeal from Order itself is not maintainable, no purpose will be served by issuing rule on the Application for condonation of delay. Civil Application is rejected.

4. Notwithstanding this order, it will be open for the Applicant to take out appropriate proceedings for challenging the impugned order.

Judge.